

Remarks

The Office Action rejects claims 1-8 under 35 U.S.C. § 102(e) as anticipated by Becerra et al 2004/0072049. This rejection is respectfully traversed for the reasons set forth in Response of November 9, 2004.

The Office Action argues that Applicants have failed to adequately respond to the rejection because the November 9, 2004 Response amounted only to a general allegation of patentability. Applicants respectfully disagree, and will attempt to more clearly explain the basis for traversal.

The '049 reference is not prior art against the present application under 35 U.S.C. § 102(e) because it has a filing date of September 30, 2003, which is *after* Applicants' filing date of February 2, 2002.


The Office Action takes the position that '049 is prior art because it is entitled to the January 8, 2002 priority filing date of parent application 10/041,301, of which '049 is a continuation-in-part. However, the Becerra et al parent application, published as US 2003/0129464, fails to disclose or suggest a wastewater port located at a second cavity, which is a required element of Applicants' claims. It is of course well-settled law that to anticipate a patent claim, a reference must disclose each and every element of the claim at issue, and the Becerra et al reference fails to do this.

The Examiner argues that "Applicants have failed to notice the entire composition of the prior art rejection which clearly cites and alludes to the disclosure of the '049 application publication fully supported by its parent case the '464 reference". Applicants' attorney has carefully studied both Becerra et al references as well as the Examiner's characterization of the references, but cannot find any support in the '464 parent for a disclosure of Applicants' claim limitation of a wastewater port located at a second cavity (or to *any* wastewater port for that matter). Applicants respectfully request that if the Examiner is aware of such support, that a specific citation of where it can be found *in the '464 reference* be provided so that it can be addressed in an appeal brief if an appeal is necessary. In this regard, Applicants note that much of the support for a wastewater port located at a second cavity cited at pages 5-6 of the Office Action (referring to Figure 13, Paragraph 0063, and Paragraph 0068) is simply not found in the '464 parent reference.

In view of the above, Applicant respectfully submits that the present invention is patentable over the cited references. Accordingly, Applicants respectfully submit that the present application is in condition for allowance, and they request early action toward that end.

If there are any additional charges with respect to this Response or otherwise, please charge them to Deposit Account No. 50-0831 maintained by Applicants' attorney.

Respectfully submitted,



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